



04-04-2003

U.S. Patent &amp; TMO/TM Mail Rcpt Dt. #34

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In The Matter Of:

Serial No. : 76/301162  
 Filed : August 17, 2001  
 Mark : EXEL  
 Goods : Clothing; namely, pants, shirts, t-shirts, shorts, sweatshirts, jackets,  
 gloves, hats, socks, and headwear  
 Class : 25

Edmont P. D'Ascoli, Trustee of the Edmont )  
 P. D'Ascoli Revocable Living Trust Dated )  
 May 24, 1996 )

Opposer,

Opposition No.: 91155174

v.

Exel Oyj

Applicant.

BOX TTAB

NO FEE

Commissioner for Trademarks  
 2900 Crystal Drive  
 Arlington, Virginia 22202-3513

Enclosed herewith are the following papers:

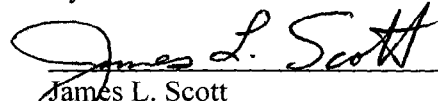
1. Answer to Notice of Opposition

The Commissioner is hereby authorized to charge any additional fee or credit any  
 overpayment to Deposit Account No. 23-0457.

Respectfully submitted,

EXEL OYJ

By: Warner Norcross &amp; Judd LLP

  
 James L. Scott  
 900 Fifth Third Center  
 111 Lyon Street, N.W.  
 Grand Rapids, MI 49503-2489  
 (616) 752-2469



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2900 Crystal Drive

Arlington, Virginia 22202-3513

**ANSWER TO NOTICE OF OPPOSITION**

Exel Oyj ("Applicant") hereby files its Answer to the Notice of Opposition (the "Notice") filed by Edmont P. D'Ascoli, Trustee of the Edmont P. D'Ascoli Revocable Living Trust Dated May 24, 1996 ("Opposer") and states as follows:

1. Regarding the introduction paragraph of the Notice, Applicant denies that Opposer will be damaged by registration of the mark EXEL in U.S. Application Serial No. 76/301162.

2. Regarding paragraph No. 1 of the Notice, Applicant admits that it seeks to register the trademark EXEL for use in association with “clothing; namely, pants, shirts, t-shirts, shorts, sweatshirts, jackets, gloves, hats, socks and headwear” in International Class 25.

3. Regarding paragraph No. 2 of the Notice, Applicant admits that Application Serial No. 76/301162 was filed on August 17, 2001.

4. Regarding paragraph No. 3 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

5. Regarding paragraph No. 4 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

6. Regarding paragraph No. 5 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

7. Regarding paragraph No. 6 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

8. Regarding paragraph No. 7 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

9. Applicant denies the allegations in paragraph No. 8 of the Notice.

10. Applicant denies the allegations in paragraph No. 9 of the Notice.

11. Regarding paragraph No. 10 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

12. Regarding paragraph No. 11 of the Notice, Applicant admits that Application Serial No. 76/301162 covers "clothing; namely, pants, shirts, t-shirts, shorts, sweatshirts, jackets, gloves, hats, socks and headwear" in International Class 25.

13. Regarding paragraph No. 12 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

14. Regarding paragraph No. 13 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

15. Regarding paragraph No. 14 of the Notice, Applicant admits that Applicant seeks to register the trademark EXEL through Application Serial No. 76/301162.

16. Applicant denies the allegations in paragraph No. 15 of the Notice.

17. Applicant denies the allegations in paragraph No. 16 of the Notice.

18. Regarding paragraph No. 17 of the Notice, Applicant admits that the printouts in Exhibit "A" appear to be copies of pages from Applicant's web site. Applicant is without knowledge or information sufficient to form a belief as to the truth of the other allegations in paragraph No. 17 of the Notice and therefore denies them.

19. Regarding paragraph No. 18 of the Notice, Applicant admits that the printout in Exhibit A of the Notice displays a use of the mark EXEL. Applicant denies that the use of EXEL as shown in Exhibit A of the Notice is the only manner in which Applicant uses the mark EXEL.

20. Regarding paragraph No. 19 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

21. Applicant denies the allegations in paragraph No. 20 of the Notice.

22. Applicant denies the allegations in paragraph No. 21 of the Notice.

23. Applicant denies the allegations in paragraph No. 22 of the Notice.

24. Applicant denies the allegations in paragraph No. 23 of the Notice.

25. Applicant denies the allegations in paragraph No. 24 of the Notice.

26. Applicant denies the allegations in paragraph No. 25 of the Notice.

27. Applicant denies the allegations in paragraph No. 26 of the Notice.

28. Applicant denies the allegations in paragraph No. 27 of the Notice.

29. Regarding paragraph No. 28 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

30. Regarding paragraph No. 29 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

31. Regarding paragraph No. 30 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

32. Applicant denies the allegations in paragraph No. 31 of the Notice.

33. Regarding paragraph No. 32 of the Notice, Applicant is without knowledge or information sufficient to form a belief as to the truth of the allegations and therefore denies them.

#### *AFFIRMATIVE DEFENSES*

34. Opposer fails to state a claim for which relief can be granted.

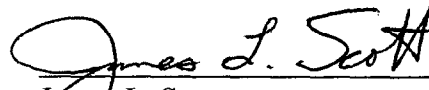
WHEREFORE, Applicant respectfully requests that the Opposer's opposition and request under its Notice be denied and that U.S. Application Serial No. 76/301162 proceed to registration.

Respectfully submitted,

EXEL OYJ

By: Warner Norcross & Judd LLP

Date: April 4, 2003.

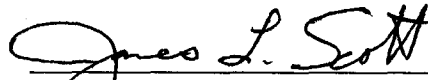


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James L. Scott  
900 Fifth Third Center  
111 Lyon Street, N.W.  
Grand Rapids, Michigan 49503-2487  
616-752-2000  
Attorneys for Applicant

Certificate Of Service

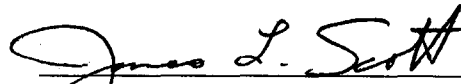
I certify that a copy of this Answer to Notice of Opposition was sent by first-class mail, this 4th day of April, 2003, postage prepaid, to Mr. Martin E. Hsia, Cades Schutte, PO Box 939, Honolulu, Hawaii, the attorney of record for Opposer.

  
James L. Scott

Certificate of Mailing By "Express Mail"

"Express Mail" mailing label number: EV195840632US

I hereby certify under 37 CFR § 1.10 that this Answer to Notice of Opposition is being deposited with the United States Postal Service as "Express Mail Post Office to Addressee" in an envelope with sufficient postage addressed to Box TTAB, No Fee, Commissioner for Trademarks, 2900 Crystal Drive, Arlington, Virginia 22202-3513, on April 4, 2003.

  
James L. Scott

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